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Federal Transit Administration Modifies Project Review Criteria to Focus More on Livability and Sustainability

On January 13, 2010, the Federal Transit Administration (FTA) announced it was rescinding a significant Bush administration policy regarding the funding of new transit projects under the discretionary New Starts and Small Starts programs. FTA's new policy significantly reduces emphasis on the cost-effectiveness of proposed projects and highlights the "economic development, environmental, social, and congestion relief" benefits of transit.

New Starts and Small Starts are the programs under which FTA provides capital investment grants to new or extended fixed guideway systems, such as heavy and light rail and bus rapid transit. In 2005, the Bush administration announced that it would recommend the funding of new transit projects only if they received at least a "medium" cost-effectiveness rating. Cost-effectiveness was measured primarily by comparing the cost of the project with the degree to which it improved mobility by reducing travel times. This policy deemphasized other statutory criteria for evaluating projects, such as environmental benefits, economic development, transit supportive land use policies and congestion relief, as well as the degree of local financial commitment.

The FTA announced in a "Dear Colleague" letter on Wednesday that it is "restoring the statutorily prescribed process" in 49 U.S.C. § 5309, so that a project will be recommended for federal funding if it receives an *overall* rating of "medium" – not just a medium rating for cost-effectiveness – based on the project justification criteria as well as the local financial commitment. As a result, individual project justification criteria such as the "environmental, community and economic development benefits" of projects will receive weight in the funding determination. FTA stated that it is making the changes to "more fully realize the livability and sustainability goals of the Obama Administration."

In addition to the new policy, which does not require rulemaking and takes effect immediately through the "Dear Colleague" letter, FTA announced that soon it will start a rulemaking to "more fully and accurately reflect the wide range of benefits from major transit investment." In a separate Q&A, FTA explained that it intends to do so by issuing a proposed rule that will revise the cost-effectiveness calculation. The new methodology, according to FTA, will "more fully take into account th[e] wider range of benefits" of transit projects (i.e., the environmental, community and economic development benefits identified in its announcement).

To explore how this shift in New Starts and Small Starts funding decisions may affect your proposed transit project, or to learn more about [Venable's Transportation Practice](#), please contact [John Milliken](#), [James Burnley](#), [Dana Nifosi](#), [Lowell Rothschild](#), or [Ashley Craig](#).

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